

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

JOHN KELLEY, *et al.*,

Plaintiffs,

v.

XAVIER BECERRA, *et al.*,

Defendants.

Civil Action No. 4:20-cv-00283-O

**DEFENDANTS' NOTICE OF ERRATA OR CLARIFICATION REGARDING
SUPPLEMENTAL FILING ON CROSS-MOTIONS FOR SUMMARY JUDGMENT**

On August 2, 2022, Defendants submitted their supplemental filing regarding cross-motions for summary judgment (ECF No. 86). On page 3 of that filing, at the conclusion of the section discussing ACIP, the filing states that “[t]he Secretary or CDC Director could also exercise their removal authority over recalcitrant ACIP members. *See* Cross-Mot. at 5 (noting that ACIP ‘[m]embers are selected by the Secretary . . . and . . . are removable at will’).” However, Defendants wish to clarify that only the Secretary has formal removal authority over ACIP members. The CDC Director, by virtue of her authority as the officer that “the committee reports to” can seek to persuade ACIP members to resign, APP 149, ECF No. 65, but cannot unilaterally remove them as the Secretary can. Thus, the identified sentence is corrected to read, “The Secretary could also exercise his removal authority over recalcitrant ACIP members. *See* Cross-Mot. at 5 (noting that ACIP ‘[m]embers are selected by the Secretary . . . and . . . are removable at will’).” Defendants regret any confusion and apologize to the Court for the lack of clarity on this point in their supplemental filing.

Respectfully submitted,

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Certificate of Service

On August 5, 2022, I electronically submitted the foregoing document with the clerk of court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. I hereby certify that I have served all parties who have appeared in the case electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

/s/ Christopher M. Lynch
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